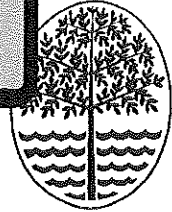
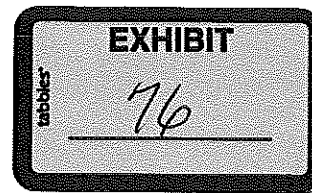


WOODRIDGE LAKE PROPERTY OWNERS' ASSOCIATION, INC.
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Goshen, CT 06756
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BUREAU OF WATER PROTECTION AND LAND REUSE
OFFICE OF THE BUREAU CHIEF



JAN 26 2010

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January 20, 2010

Paul E. Stacey
Department of Environmental Protection
Bureau of Water Protection and Land Reuse
Planning & Standards Division
79 Elm Street
Hartford, Connecticut, 06106-5127

Re: Proposed Regulations of Connecticut State Agencies Sections 26-141b-1 to 26-141b-9

Mr. Stacey:

Respectfully, we find the proposed regulations referenced above to be very complex and somewhat ambiguous, and therefore seek clarification that they do not apply to Woodridge Lake for the reasons explained below.

Summary of Our Request

We seek confirmation that Woodridge Lake would be exempt from the controlled releases, record keeping, and reporting requirements of the proposed regulations because our lake is a "recreational impoundment" that operates in the "run-of-river mode", other than in the "draw down and refill mode", where the impoundment does not divert water for a consumptive use. Thus, we would like confirmation that the regulation provides an exemption from section 26-141b-8 (c) and (d) for run-of-river impoundments.

Explanation

Our Association is the owner and operator of the Class A dam number 00452 that created Woodridge Lake that is located in Goshen, Connecticut (73°15'1.9"W 41°48'19.9"N). The lake is approximately 1.7 miles long by 0.5 miles wide at its widest point. It has a surface area of approximately 378 acres and, according to our reading of the proposed regulation, it would be considered a "recreational impoundment" in that it does not have a mechanism for commercial consumptive water use.

Like many lakes in the State, ours is subject to invasive non-native aquatic plant infestation. Our Association has engaged several prominent independent consultants to assist us in developing an integrated management program addressing Eurasian watermilfoil (*Myriophyllum spicatum*). Woodridge Lake was treated with Sonar (active ingredient fluridone) herbicide during the 2005 season. Milfoil was effectively controlled throughout the 2005 season and for the majority of the 2006 season. Scattered milfoil regrew in September 2006, and the milfoil distribution continued to increase during the 2007 and 2008 seasons. During the 2008/2009 winter, a 9-foot drawdown was accomplished and during this 2009/2010 winter a 12-foot drawdown is in progress. Additionally over the course of the 2008 and 2009 summer seasons, the Association utilized contract suction-harvesting and diver hand-pulling to control scattered milfoil in several locations along the eastern shoreline and experimented with the use of an Aquascreen bottom barrier in the southeastern, marina cove. We are budgeting more than \$36,000 this fiscal year to execute these non-herbicide modalities, although we are seeking to be prudent fiscally.

We have found that drawing down the lake has been a very effective tool in controlling Eurasian watermilfoil. As such we are very pleased that the regulation as proposed includes the following language, which we support as written:

“Section 26-141b-3. Applicability

Paragraph (c) (12): Diversion of water caused by drawing down the surface elevation of an impoundment and subsequent refilling for the purpose of aquatic weed control, water quality control, seasonal drawdown, or inspection or maintenance of a dam, gate house, outlet works, reservoir, shoreline or dock, provided:

- (A) the surface elevation of the impoundment is lowered only to the elevation and for the amount of time necessary for aquatic weed control, water quality control, or inspection or maintenance of dam, gate house, outlet works, reservoir, shoreline or dock; and
- (B) during drawdown and refilling periods, water is continuously released in an amount equal to or greater than 0.15 cfs or an amount equal to or greater than the natural inflow, whichever is less”;

We understand that under Section 26-141b-2, Definitions, paragraph (35), we would be considered a "dam operating in the run-of-river mode". We do have several comments regarding the language regarding the definition of the term run-of-river and its coverage under the proposed statute section 26-141b-2, Definitions, paragraph (35) and coverage under section 26-141b-3, Applicability, paragraph (c) (18), which states: “Operation of a dam in run-of-river only if such dam complies with the record keeping and reporting requirements of section 26-141b-8 of the Regulations of Connecticut State Agencies.” This paragraph above implies a record keeping and reporting requirement for dams operating in the run-of-river mode.

We understand the intent of the proposed regulation in the case of recreational impoundments such as Woodridge Lake that operate in the run-of-river mode, other than in the draw down and refill mode, where the impoundment does not divert water for a consumptive use is to exempt such recreational impoundments from the regulation's controlled releases, record keeping, and reporting requirements.

We do not believe this intended exemption is explicit in the regulation as written, and believe that it should be and that the ambiguity be clarified. We want to make sure that the regulation provides an

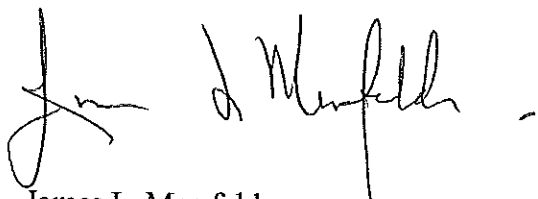
explicit exemption from section 26-141b-8 (c) and (d) for run-of-river impoundments such as Woodridge Lake. The following is our suggested language to strengthen the statute regarding this exemption and we propose that section 26-141b-8 (b) read as follows:

"Any person owning or operating a dam in run-of-river operation shall, not later than one year after the effective date of classification of the river or stream segment on which such owner's or operator's dam is located, submit to the department a certification that such dam is operating and will continue to operate in run-of-river mode. Operating a dam in the run-of-river mode shall be exempt from section 26-141b-6, Presumptive standards and section 26-141b-8, Record keeping and reporting requirements, paragraphs (c) and (d) herein. The only section of this regulation which shall supersede these exemptions shall be section 26-141b-3 paragraph (c) (12) regarding draw downs and refill."

We have looked at the run-of-river definition in the proposed regulation and have noted that there are different definitions for this term in use. The one used in the hydro power industry is different than in the civil engineering area. The use of the terms "head pond storage" and "instantaneous" flow are confusing. It is not clear in the definition that any diversion of water for a consumptive use is not allowed in the run-of-river mode. We would suggest that a clearer definition of the run-of-river mode be inserted in the statute to avoid any confusion in classifying dams operating in this mode.

If you have any questions about our comments, please contact us. We appreciate your clarifying the proposed regulations as requested so that lakes like ours can plan our affairs accordingly.

Very truly yours:



James L. Mersfelder
President

cc Roberta Willis Representative
Charles Lee, Lake Management DEP
Lori Mathieu, Drinking Water Section DPH
Bob Valentine, First Selectmen Goshen
Board of Directors
William Houle, General Manager
Stephen Levy, Chair Lake & Dam Committee